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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,174	02/12/2002	William Willett	MAT 3E3	7324

7590 07/07/2003
Kolisch, Hartwell, Dickinson,
McCormack & Heuser
200 Pacific Building
520 S.W. Yamhill Street
Portland, OR 97204

EXAMINER

ABDELWAHED, ALI F

ART UNIT PAPER NUMBER

3712

DATE MAILED: 07/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n N .

10/075,174

Applicant(s)

WILLETT, WILLIAM

Examiner

Ali Abdelwahed

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-29 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-21, drawn to an animated toy doll, classified in class 446, subclass 330.
- II. Claim 22, drawn to an animated doll-head structure, classified in class 446, subclass 391.
- III. Claim 23, drawn to an animation structure in a doll head, classified in class 446, subclass +.
- IV. Claims 25-29, drawn to an animated toy doll, classified in class 446, subclass +.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and sub-combination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the sub-combination as claimed for patentability, and (2) that the sub-combination has utility by itself or in other combinations (MPEP § 806.05(c)). In this case, the combination as claimed does not require the particulars of the sub-combination as claimed because the combination does not require "...a follower drivable to move the actuator...". The sub-combination has separate utility such as for use in a toy vehicle.

Inventions I and III are related as combination and sub-combination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the sub-combination as claimed for patentability, and (2) that the sub-combination has utility by itself or in other combinations (MPEP § 806.05(c)). In this case, the combination as claimed does not require the particulars of the sub-combination as claimed because the combination does not require "...a single, elongate rotary drive drum...". The sub-combination has separate utility such as for use in a music box.

Inventions I and IV are related as combination and sub-combination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the sub-combination as claimed for patentability, and (2) that the sub-combination has utility by itself or in other combinations (MPEP § 806.05(c)). In this case, the combination as claimed does not require the particulars of the sub-combination as claimed because the combination does not require "...each drive member comprises a cylindrical structure having a diameter and an axis of rotational symmetry which is also an axis of rotation for the cylindrical structure...". The sub-combination has separate utility such as for use in a drive gear system for a toy vehicle.

Inventions II and III are related as combination and sub-combination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed

does not require the particulars of the sub-combination as claimed for patentability, and (2) that the sub-combination has utility by itself or in other combinations (MPEP § 806.05(c)). In this case, the combination as claimed does not require the particulars of the sub-combination as claimed because the combination does not require "...a single, elongate rotary drive drum ...". The sub-combination has separate utility such as for use in a music box.

Inventions II and IV are related as combination and sub-combination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the sub-combination as claimed for patentability, and (2) that the sub-combination has utility by itself or in other combinations (MPEP § 806.05(c)). In this case, the combination as claimed does not require the particulars of the sub-combination as claimed because the combination does not require "...each drive member comprises a cylindrical structure having a diameter and an axis of rotational symmetry which is also an axis of rotation for the cylindrical structure...". The sub-combination has separate utility such as for use in a drive gear system for a toy vehicle.

Inventions III and IV are related as combination and sub-combination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the sub-combination as claimed for patentability, and (2) that the sub-combination has utility by itself or in other combinations (MPEP §

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806.05(c)). In this case, the combination as claimed does not require the particulars of the sub-combination as claimed because the combination does not require "...each drive member comprises a cylindrical structure having a diameter and an axis of rotational symmetry which is also an axis of rotation for the cylindrical structure...". The sub-combination has separate utility such as for use in a drive gear system for a toy vehicle.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ali Abdelwahed whose telephone number is (703) 305-3311. The examiner can normally be reached Monday through Friday from 9:00 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

AA
07/03/2003



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